

# HOUSE BILL REPORT

## HB 2111

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**As Reported by House Committee On:**  
Higher Education

**Title:** An act relating to performance contracts between the state and institutions of higher education.

**Brief Description:** Authorizing performance contracts between the state and institutions of higher education.

**Sponsors:** Representatives Priest, Jarrett and Cox.

**Brief History:**

**Committee Activity:**

Higher Education: 3/4/03, 3/5/03 [DPS].

**Brief Summary of Substitute Bill**

- Creates a 16-member task force of legislators and representatives of higher education and the executive branch to consider the feasibility of implementing performance contracts between institutions of higher education and the state.
- Requires the task force to develop guidelines and possible models of performance contracts and report its findings and recommendations to the Legislature by December 15, 2003.

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### HOUSE COMMITTEE ON HIGHER EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Kenney, Chair; Fromhold, Vice Chair; Cox, Ranking Minority Member; Priest, Assistant Ranking Minority Member; Berkey, Boldt, Buck, Chase, Clements, Condotta, Gombosky, Jarrett, Lantz, McCoy and Morrell.

**Staff:** Barbara McLain (786-7383).

**Background:**

During 2002 the Washington State Institute for Public Policy (Institute) conducted interviews with more than 70 key stakeholders as part of a legislatively-directed study of the Higher Education Coordinating Board (HECB). According to the Institute's report,

many stakeholders view the state as "struggling to impose and maintain a regulatory relationship with its colleges and universities." The report also noted that tension between state centralization and institutional autonomy is not a new phenomenon.

For example in 1993 the Legislature enacted a law declaring a "need to redefine the relationship between the state and its postsecondary education institutions through a compact based on trust, evidence, and a new alignment of responsibilities." The law intended to create a state policy where institutions would have authority and flexibility to meet statewide goals through locally-based decisions. In return for evidence of achieving desired results, the state would reduce its micromanagement of institutions. According to the Institute's report, the idea of this compact relationship has faded from view, possibly because it lacked an explicit mechanism to put it into operation.

Several other states, however, are experimenting with creating new relationships with one or more public institutions through performance compacts. In Kansas the Board of Regents has been directed by the Legislature to negotiate performance agreements with public institutions. West Virginia and Virginia are implementing compacts. Maryland and Colorado have chosen single institutions to pilot compacts (St Mary's College and the Colorado School of Mines).

A compact is a contractual agreement negotiated between the state (typically by the state governing board) and an institution's governing board. The agreement specifies measurable performance objectives which the institution commits to meet over the term of the compact and outlines the types of flexibility the state will offer in return.

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### **Summary of Substitute Bill:**

A task force on higher education performance contracts is created with 16 members. Eight legislative members represent the higher education and fiscal committees of the House and Senate. The HECB and the State Board for Community and Technical Colleges (SBCTC) each appoint one representative. The Council of Presidents (for the four-year institutions) and the Washington Administrative Council (for the two-year institutions) each appoint two representatives. There is also a representative from the Governor's Office and the Office of Financial Management (OFM).

The task force will examine the experience of other states in developing and implementing contracts; consider the feasibility of implementing contracts in Washington; and identify whether amendments to current laws are needed. The task force will also develop guidelines and possible models for contracts, including the types of institutional performance indicators and benchmarks that could be in a contract and the types of flexibility, exemptions, or commitments from the state that could be in a contract.

A report with findings and recommendations is due to the Senate and House higher

education and fiscal committees by December 15, 2003. The task force expires June 30, 2004.

**Substitute Bill Compared to Original Bill:**

In the original bill a joint select committee prepared a concurrent resolution for the 2004 legislative session establishing statewide goals and objectives for the state's system of higher education, and provided guidance for the negotiation of performance contracts between the institutions and the state. After passage of the concurrent resolution, the state began to negotiate with the governing boards of each four-year institution and the SBCTC (representing the two-year institutions) to create performance contracts under which the institutions and system would operate for the duration of the contract. The state was represented by OFM, the Governor's Office, and the HECB. The HECB submitted completed contracts to the Legislature by January 15, 2005, and the Legislature approved or rejected the contracts through concurrent resolution.

In the substitute bill the joint select committee is replaced with a task force that includes non-legislative members representing higher education institutions and the executive branch. The task force will examine the experience of other states in developing and implementing contracts; consider the feasibility of implementing contracts in Washington; and identify whether amendments to current laws are needed. The task force will also develop guidelines and possible models for contracts and report to the Legislature by December 15, 2003.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The state is at a critical crossroads in higher education. Meeting looming enrollment, facilities, and financial demands requires clear goals and a strategic plan. For the past five weeks, the Higher Education Committee has been hearing about the lack of such a plan and the lack of a coherent framework for decision-making. Merely creating a plan that sits on a shelf is not sufficient. There is a need to implement the state's goals within the framework of a true partnership between institutions and the state. Contracts empower individuals and organizations and enable them to carry out their responsibilities without unnecessary interference.

(Concerns) There is some interest in pursuing a contract negotiation, but the institutions want to ensure it is not a one-sided conversation. The state must be prepared to commit to its part of the deal. It is not clear from the bill what happens to legally-authorized

collective bargaining agreements under the performance contracts.

**Testimony Against:** Institutions already have performance indicators that are monitored and reported to the HECB and the Legislature. There is another bill before the Committee that is a better vehicle for strengthening goal-setting and strategic planning. A contract implies obligations on the part of both parties and it is not apparent in this bill what the state is committing to the institutions. The bill includes faculty productivity within a performance contract, but that topic is already addressed in collective bargaining agreements.

**Testified:** (In support) Representative Priest, prime sponsor; and Jim Huckabay, Council of Faculty Representatives.

(With concerns) Sandy Wall, State Board for Community and Technical Colleges; Dick Thompson, University of Washington; Marc Gaspard, Higher Education Coordinating Board; Wendy Rader-Konofalski, Washington Federation of Teachers; and Gary King, Washington Education Association.

(Opposed) Edie Harding, The Evergreen State College.

(Neutral) William Chance, Northwest Education Research Center.